

THE TAKEOVER PANEL

CODE COMMITTEE

Instrument 2017/2

Schemes of arrangement, multilateral trading facilities and other miscellaneous amendments to the Takeover Code

Pursuant to sections 942, 943 and 944 of the Companies Act 2006, Articles 2, 3 and 4 of the Companies (Takeovers and Mergers Panel) (Jersey) Law 2009 and sections 340A, 340B and 340C of the Companies (Guernsey) Law, 2008, and in exercise of the functions conferred on it by the Panel in paragraph 2 of its Terms of Reference, the Code Committee hereby makes this instrument containing rules.

In the Appendix, underlining indicates new text and striking-through indicates deleted text.

The Takeover Code is hereby amended in accordance with the Appendix to this instrument.

The amendments will take effect on 2 May 2017.

Guy Elliott
Chairman of the Code Committee
for and on behalf of the Code Committee

12 April 2017

APPENDIX

INTRODUCTION

3 COMPANIES, TRANSACTIONS AND PERSONS SUBJECT TO THE CODE

...

(a) Companies

- (i) UK, Channel Islands and Isle of Man registered and traded companies

The Code applies to all offers (not falling within paragraph (iii) below) for companies and Societas Europaea (and, where appropriate, statutory and chartered companies) which have their registered offices* in the United Kingdom, the Channel Islands or the Isle of Man if any of their securities are admitted to trading on a regulated market or a multilateral trading facility# in the United Kingdom or on any stock exchange in the Channel Islands or the Isle of Man.

- (ii) Other companies

The Code also applies to all offers (not falling within paragraph (i) above or paragraph (iii) below) for public and private companies† and Societas Europaea (and, where appropriate, statutory and chartered companies) which have their registered offices* in the United Kingdom, the Channel Islands or the Isle of Man and which are considered by the Panel to have their place of central management and control in the United Kingdom, the Channel Islands or the Isle of Man, but in relation to private companies only when:

- (A) any of their securities have been admitted to trading on a regulated market or a multilateral trading facility# in the United Kingdom or on any stock exchange in the Channel Islands or the Isle of Man at any time during the 10 years prior to the relevant date; or

...

#In the case of a company whose securities are or have been admitted to trading on a multilateral trading facility in the United Kingdom, paragraph (i) will apply, and criterion (A) of paragraph (ii) will be satisfied, only if the company has approved trading, or requested admission to trading, of its securities on the relevant multilateral trading facility.

...

Rule 24.3**24.3 FINANCIAL AND OTHER INFORMATION ON THE OFFEROR, THE OFFEREE COMPANY AND THE OFFER**

Except with the consent of the Panel:

- (a) where the offeror is a company incorporated under the Companies Act 2006 (or its predecessors) and its shares are admitted to trading on a UK regulated market or on AIM or the ~~ISDX~~ NEX Exchange Growth Market, the offer document must contain:

...

Rule 28.5**28.5 PROFIT ESTIMATES**

Rule 28.1 does not apply to a profit estimate included in:

...

- (b) a half-yearly financial report which complies with the relevant provisions of the UKLA Rules, the AIM Rules for Companies or the ~~ISDX~~ NEX Exchange Growth Market Rules for Issuers; or

...

Appendix 7**APPENDIX 7****SCHEMES OF ARRANGEMENT****DEFINITIONS AND INTERPRETATION**

...

Effective date

Effective date means:

- (a) ~~—~~ ~~the date on which the order of the court sanctioning the scheme is delivered to the registrar of companies for registration;~~ ~~or~~
- (b) ~~— if later, the date on which the order of the court confirming any associated reduction of capital and statement of capital are delivered to the~~

registrar of companies for registration or, if the court so orders, the date on which they are registered.

...

1 APPLICATION OF THE CODE TO SCHEMES OF ARRANGEMENT

...

NOTE ON SECTION 1

Schemes of arrangement in jurisdictions other than the United Kingdom

Where an offer to which the Code applies is effected by means of a scheme of arrangement in a jurisdiction other than the United Kingdom, the Panel must be consulted to determine how the provisions of Appendix 7 must be applied if there are differences in how the scheme is to be implemented as compared with how a scheme of arrangement is customarily implemented in the United Kingdom.

...

3 EXPECTED SCHEME TIMETABLE

...

(d) The offeree company must ensure that the scheme circular sets out the expected timetable for the scheme, including the expected dates and times for the following:

...

(vi) the record date for the purposes of the scheme ~~and/or any reduction of capital provided for by the scheme;~~

(vii) the date and time of any proposed suspension in trading of shares or other securities of the offeree company;

~~(viii) the date of any court hearing to confirm any reduction of capital provided for by the scheme;~~

~~(ix)~~ viii) the effective date;

(ix) the date and time of the admission to trading of any offeror securities to be issued in connection with the scheme; and

(xi) the long-stop date.

...

6 CHANGES TO THE EXPECTED SCHEME TIMETABLE

(a) Any adjournment of a shareholder meeting or court sanction hearing, or a decision by the ~~offeree~~-board of the offeree company to propose such an adjournment, ...

...

8 SWITCHING

...

NOTES ON SECTION 8

1. *Determination of the offer timetable following a switch*

Factors which the Panel may take into account when determining the offer timetable that will apply following a switch include:

...

(c) *the views of the ~~offeree~~-board of the offeree company and the switching offeror; and*

...

13 SCHEMES WHICH DO NOT HAVE THE SUPPORT OF THE OFFEREE BOARD

The Panel should be consulted if an offeror is considering announcing an offer or possible offer which it is proposed will be implemented by means of a scheme of arrangement without, prior to such announcement, obtaining the support of the ~~offeree~~-board of the offeree company.